

### **REMARKS/ARGUMENTS**

Firstly, it is noted that the Examiner's comment about the mis-numbering of the claims not being in accordance with 37 C.F.R. 1.126 appears correct. As required, a full listing of the claims is set out above, and former claim 51 (second occurrence) has been renumbered as 52 with the subsequent claims renumbered 53-64. As the Examiner has indicated that this renumbering has already been entered into the Patent Office records, this correction is not shown as an amendment at this stage.

#### **Rejection Under 35 U.S.C. 103(a)**

The Examiner rejected claims 50-54, using the corrected numbering scheme, under 35 U.S.C. 103(a) as being unpatentable over Hsu et al. '568 and Aull '710. In response, claim 50 has been amended to include, in effect, much of the subject matter of claim 26.

Thus, claim 50 now defines a network communication system that is for "enabling the real time buying and selling of electrical power between a plurality of vehicles and an energy service provided". The system is now defined as including a network communication system for providing real time communication between each vehicle and the energy service provider, to facilitate the real time buying and selling of electrical power. It further includes a plurality of docking stations, each including connections for at least one vehicle, and also a controller on each vehicle for handing over control of the fuel power unit to the energy service provided. This then enables the energy service provided to make determinations of when to operate each fuel cell power unit and to set the load level.

Following the language of former claim 50, it is further required that each of the plurality of vehicles and the plurality of docking stations is associated with a unique digital identifier, with the unique digital identifier of each vehicle being required for control of the controller thereof. The identifier facilitates identifying the vehicles at the docking stations in the network.

The Examiner had argued that Hsu et al. discloses a system including a plurality of "off board" docking stations, connected to the vehicles and to a

communication network that can transmit information about condition parameters of the vehicle and the station. Without correcting the validity of that argument, what Hsu et al. fails to disclose is any sort of controller on the vehicle for controlling the vehicle, that further enables control of the power generating components, e.g. fuel cell, etc., on each vehicles to be handed over to an energy service provider. Thus, while Hsu et al. may disclose some limited and simplistic scheme for taking power from a fuel cell powered vehicle, they fail to address the practicalities of how each fuel cell vehicle will be controlled. More specifically, they fail to address the situation where an energy service provider may have access to hundreds, possible thousands, of individual vehicles, and needs to control the vehicles to generate the required power, with selection of operating levels of vehicles being dependent upon a number of different parameters; for example, efficiencies of individual vehicles and any agreed contract prices for supply of fuel and payment for electricity generated would all be factors that an energy service provider is expected to use to determine which vehicles to operate and what load levels. None of this is addressed by Hsu et al., and none of this is possible in the simplistic scheme proposed by Hsu et al. The present invention, in contrast, recognizes is that the provision of unique digital identifiers greatly facilitates the scheme proposed by the present invention, where again there may be hundreds of thousands of vehicles involved. Such digital identifiers ensure that appropriate ones of the vehicles can be selected and operated, that proper accounting to take place, for example, with the cost of fuel being properly charged to each vehicle and credits or payments for electricity generated similarly are properly credited to the correct vehicle account.

With respect to the Aull reference, this is concerned with a wholly different scheme, and it is first submitted that Aull amounts to non-analogous art, or at a minimum, there is no reason or basis for considering a combination of Aull with Hsu et al. The Aull '710 patent is concerned with a system and method for secure legacy enclaves in a public key infrastructure. Thus, Figure 1 of Aull describes a basic public key infrastructure scheme and a known technique for incorporating legacy applications (incorrectly identified as "legal application" in Figure 1). As noted in the paragraph bridging columns 2 and 3 of Aull, the invention is intended to address what is stated to be "a need...for a system and method for integrating legacy systems into a modern PKI-

based authentication system without requiring expensive modifications to the legacy software". There is nothing in Aull that suggests that it could be used in any scheme involving generation of electrical power from fuel cell-powered vehicles.

At the same time, as previously noted, Hsu et al. is remarkably silent as to how control of individual vehicles would be achieved, and simply assumes some simple connections being made to the vehicle. It is therefore firstly argued that Hsu et al. fails to provide the necessary hardware and software that would enable implementation of the system and method disclosed in Aull. Accordingly, it is submitted that there is no reason or basis in this art for an notional combination, and further that any such notional combination must fall short of the presently claimed invention.

Any such notional combination would still lack any on board controller, for controlling the vehicle, that can be controlled by an external energy service provided over the network. Such a scheme is nowhere envisaged in either of these two references.

Accordingly, it is submitted that claim 50 and its dependent claims 51-54 are novel and inventive over the known art.

With respect to claims 1-53 and 55-64, using the correct numbering scheme, the Examiner had rejected these on the ground of non-statutory obviousness-type double patenting, as being unpatentable over claims 1-54 of applicants' earlier U.S. Patent 6,673,479. Additionally, the Examiner had relied upon the Aull U.S. Patent '710 for similarly rejecting claim 54 (new number) on the same ground. In reply, applicants submit a Terminal Disclaimer. The Examiner has noted that a timely filed Terminal Disclaimer would overcome this rejection based on the non-statutory double patenting ground, and accordingly the Examiner is requested to withdraw this rejection.

With respect to claims 55-59 (again the new numbering scheme), the Examiner rejected these claims under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. More specifically, the Examiner had difficulty with the phrase "vehicle adapted to negotiate a contract". In reply, claims 55, 58 and 59 have all been reworded to indicate that the vehicle includes an interface enabling one of a vehicle owner and a vehicle operator to negotiate the contract. No new matter has been added.

Claim 7, for example, refers to an interface; claim 9, for example, mentions that it can be "one of a vehicle owner and a vehicle operator" that negotiates a contract for the network, so that no new matter has been added. It is submitted that these amendments clearly address the Examiner's concerns under 35 U.S.C. 112, and that these claims are now fully compliant with the second paragraph of Section 112.

Additionally, the claims have been reviewed and the phrase "adapted to" removed in most instances, where it appears inapplicable.

The Examiner objected to a number of informalities in the disclosure. Appropriate amendments have been entered at: page 3, line 15; and page 41, line 11. With respect to what are identified as the counterparts to the independent claims found in the passage from page 17, line 6 through page 19, line 17, these have been revised to bring them into agreement with the independent claims 1, 26, 38, 42 and 45, with three new statements or paragraphs being added corresponding to claims 50, 55 and 60 (with reference to the corrected numbering scheme). Again, no new matter has been added. These amendments necessarily address the Examiner's original objection to the wording on page 18.

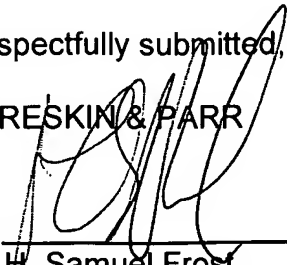
The Examiner had noted that the complete specification had not been checked for all minor errors. The specification has been reviewed, and a further minor error has been corrected at page 24, line 16.

Accordingly, it is submitted that the specification as now amended is in order for allowance, and early review and allowance are requested.

Respectfully submitted,

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Attachments